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SUBJECT: ICTY: SURPRISE OVER CERMAK/MARKAC, NO FANFARE FOR BOSNIAN CROATS

Classified By: Ambassador Ralph Frank for reasons 1.4 (b) & (d).

1. (U) SUMMARY AND COMMENT: Croatian government officials and political leaders expressed surprise and disappointment at the ICTY trial chamber's September 14 decision against provisional release of Generals Mladen Markac and Ivan Cermak, particularly in the wake of their voluntary surrender to the Court and the recent release of six Bosnian Croat indictees who were permitted to return to Croatia while awaiting their trial. The court used the GOC's failure to deliver fugitive general Ante Gotovina to support its lack of confidence in state guarantees for the Markac/Cermak release.

2. (C) The GOC undoubtedly hoped that the tightly controlled Zagreb arrival of the six Bosnian Croats a week earlier had demonstrated the seriousness of government guarantees related to provisional releases. The conspicuous lack of press statements and absence of nationalist crowds at the airport for the six contrasted sharply with previous "homecomings" from the ICTY; the GOC made an effort to show it can manage public aspects of indictee releases. Anti-ICTY public sentiment gained a temporary boost, but the GOC will support the decision. END SUMMARY AND COMMENT.

SUPPORTING THE DECISION AND THE APPEAL

3. (C) Despite political rumblings on the continued detention of Cermak and Markac, accused of war crimes in southern Croatia in 1995, Assistant Minister of Justice for ICTY Cooperation Jaksa Muljagic assured the Embassy September 15 that MOJ Vesna Skare-Ozbolt will publicly stand by the ruling. "A court decision is a court decision," Muljagic stressed, quietly adding that Skare-Ozbolt will also support the generals, appeal expected September 20.

4. (C) The ruling against release will confuse Croatian public opinion, he said, considering that ICTY's Chief Prosecutor opposed the release of the Bosnian Croats but did not oppose the release of the two Croatian generals. According to Muljagic, this decision will stall the steady growth in public acceptance of the ICTY - important in setting the stage for the eventual capture of Gotovina, former commander of both Markac and Cermak.

ALL QUIET AT PLESO AIRPORT

4. (U) Jadranko Prlic, Berislav Pusic, Bruno Stojic, Valentin Coric and Generals Slobodan Praljak and Milivoj Petkovic, all former political and military leaders of the so called Croatian Republic of Herceg-Bosna, made no public statements upon arrival in Croatia September 9, where they will await their trial in The Hague. Whisking indictees and their families past the press, it appears the GOC is making a concerted effort to control public events likely to stir lingering anti-ICTY sentiments. The ICTY indicted the six in April 2004 for war crimes related to the persecution of Bosnian Muslims in areas controlled by the Croatian Defense Council (HVO) from 1991 to 1994.

5. (U) The almost unnoticed arrival of the six was in stark contrast to the early August homecoming of General Tihomir Blaskic, which attracted several hundred supporters and created a minor media frenzy. Unlike Blaskic, who was released after the ICTY reduced his sentence, the six Bosnian Croats are still awaiting trial and will remain under a gag order during their house arrest. In addition, Blaskic was widely viewed by the Croatian public as a martyr paying for the crimes of others after receiving a 45-year sentence in 2000, the longest handed down by ICTY judges at the time. Prlic and company are still somewhat undefined in Croatian eyes.

THE TRANSFER TEMPEST

6. (C) Thomas Osorio, head of the ICTY office in Zagreb, immediately dismissed comments appearing in the national press from Croat member of the Bosnian Presidency Dragan Covic claiming that this case would be transferred to Croatia or Bosnia. While ICTY Chief Prosecutor Carla del Ponte is

watching how Croatians react to release of the six Bosnian Croats to gauge the country's readiness for case transfers in terms of "atmospherics," according to Osorio, she has no intention of requesting the transfer of this case.

FRANK

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